IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5133 OF 1997

1. Shri Bhaskar Ganpati Thorat)
2. Shri Lalaso Anna Thorat)

3. Prakash Ganpati Thorat Patil,)
since deceased by his legal heris)
and representatives;)
3a. Smt. Suchita Prakash Patil)
aged 38 years, Occ. Business.)
3b. Master Palak Prakash Patil,)
aged 11 years, Occ. Education)
through minor - guardian mother)
abovenamed respondent No. 3a.)
Both r/o Survey No.77/1/5, Flat)
No.10, Yeshodhan Apartments,)
Chaitraban Society, New Sangvi,)
Pune - 411 027.)

4. Shri Pradeep Ganpati Thorat)
Patil.)
5. Shri Krishna Dnyanu Thorat)
6. Shri Anna Dnyanu Gaikwad)
deceased by his legal representa-)
-tive Ashok Anna Gaikwad, Manager)
of joint Hindu family.)
All adults occ- Agriculturists,)
R/o Village Ond, Tal, Karad.)
Dist: Satara) ...Petitioners.

V/s

1. State of Maharashtra)
Through the Secretary Revenue)
and Forests Department, Mantralaya)
Mumbai- 400 032.)
)
2. The Divisional Commissioner,)
Pune Division, Pune.)
)
3. The District Resettlement)
Officer, Stara.)
)
4. The Special Land Acquisition)
Officer No.16, Satara.)
5. The Chief Engineer)
Irrigation Department, Pune-11)
)
6. The Executive Engineer,)
Minor Irrigation Division, Satara) ...Respondents

Mr. N.V. Bandiwadekar for the petitioners.

Respondents and their advocate absent.

CORAM: R.M.S. KHANDEPARKAR &
V. M. KANADE, JJ.

DATE: 17th August, 2005.

ORAL JUDGMENT: (Per R.M.S. Khandeparkar, J.)

1. Heard the learned advocate for the petitioners.

None for the respondents, though duly served.

2. By the present Petition, the petitioners are seeking direction for return of the land acquired under the provisions of the Land Acquisition Act, 1894 on the ground that certain authorities had proposed to the Collector for release of such land in favour of the erstwhile occupants. While referring to the letter dated 14/06/1990 by the Executive Engineer of Irrigation Department, Satara, addressed to the Collector of Satara, the learned advocate for the petitioners submitted that the letter apparently shows that the land in question is not required by the respondents and, therefore, it was proposed to be released in favour of the petitioners. However, till this date, land has not been released in favour of the petitioners. Attention has also been drawn to the order dated 23/12/1997 passed by Division Bench of

this Court in Writ Petition No.5649 of 1997.

3. Upon hearing the learned advocate for the petitioners and on perusal of record, it is not in dispute that the land in question was duly acquired in accordance with the provisions of law comprised under the Land Acquisition Act, 1894 and the award in respect of such acquisition was passed in the year 1986 and, consequent to the service of notice under section 12(2) and disbursement of compensation, the possession of the acquired land was also taken. It was only subsequent to the possession of the land being taken that some of the authorities, proposed for release of the land in question.

4. Once it is an undisputed fact that the possession of the land sought to be acquired by application of provisions of the Land Acquisition Act, 1894 was taken consequent to the pronouncement of the award and disbursement of compensation to the interested persons in such land, the title to the land vests in the Government, free from encumbrances in view of the provisions of law comprised under section 16 of the said Act. Being so, the respondents or any of the Officers of the respondents are not empowered under the provisions of the said Act to release any part of

the acquired land so vested in the Government otherwise than the provisions of law comprised under the Land Revenue Code in force in the State. This being undisputed position in law, merely because some of the authorities of the respondents proposed to release a portion of the land acquired under the said Act after title to the land is vested in the Government in terms of section 16 of the said Act, that cannot create any right in favour of the petitioners to seek for writ of mandamus in the nature of direction to the respondents to release such land in favour of the petitioners. It is also not in dispute that the petitioners have been duly compensated for the acquired land. There being neither any statutory provision which can get the acquired land back to the person interested on completion of the acquisition proceedings and the possession thereof being taken by the Government nor any obligation cast upon the respondents to release the land already acquired and vested in the Government, question of issuance of any writ of mandamus or direction in the nature asked for, does not arise. Even assuming that the land acquired is kept fallow or without being used for the purpose for which it was acquired, that would not create any right in favour of the persons interested from which

ownership or possession of the land was acquired, to seek mandamus for return of the land to them. Once the land is acquired on completion of the procedure prescribed under the said Act and the possession thereof is taken, it would vest in the Government without any obligation of whatsoever nature in favour of the erstwhile owner.

5. The order dated 23/12/1997 in Writ Petition No.5649 1997 merely directed in the peculiar facts of that case to the respondents to take appropriate decision on the point which was involved in the said petition. The said order does not lay down any principle of law as such. Merely because a direction was given in the said decision in the peculiar facts of that case, it cannot be said that petitioners are also entitled to have similar directions in the case in hand.

6. For the reasons stated above, the Petition fails and is dismissed. Rule is discharged with no order as to costs.

(R.M.S. KHANDEPARKAR,J.)

(V.M. KANADE, J.)